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Security Council

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Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in the Democratic Republic of the Congo

1. At its 26th meeting, on 8 September 2010, the Working Group on Children and Armed Conflict examined the fourth report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2010/369), covering the period from October 2008 to December 2009, which was introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. A representative of the Democratic Republic of the Congo participated in the subsequent discussion.

2. The main elements of the exchange of views among the members of the Working Group are summarized below.

3. The members of the Working Group welcomed the report of the Secretary-General, which was submitted in accordance with Security Council resolutions 1612 (2005) and 1882 (2009), and responded favourably to the analysis and recommendations contained therein.

4. They expressed concern about the worsening situation of children in the context of the ongoing conflict in the Democratic Republic of the Congo, owing mainly to their recruitment, re-recruitment and use, their being killed and maimed and their being subjected to widespread sexual violence, especially in the Kivus, and strongly condemned the events that had taken place in Walikale territory in August 2010.

5. They agreed on the need for a strengthened coordinated regional strategy to address the impact of the activities of the Lord's Resistance Army on children in the region.

6. They emphasized the importance of holding perpetrators of sexual violence accountable and referred to the possibility of imposing targeted measures against the perpetrators of such violations. They thanked Radhika Coomaraswamy, Special Representative of the Secretary-General for Children and Armed Conflict, for her work and requested her to continue to provide the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo with relevant information.

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7. They urged the Government of the Democratic Republic of the Congo to meet its commitment to adopt and implement an action plan on halting the recruitment and use of children, in line with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009), without further delay, and to ensure their immediate release from the Forces armées de la République démocratique du Congo (FARDC).

8. Finally, they welcomed the actions undertaken by the Government of the Democratic Republic of the Congo, including the announcement of a zero tolerance policy on 5 July 2009 regarding sexual violence, underscoring that the policy should be implemented fully.

9. The representative of the Democratic Republic of the Congo:

(a) Reaffirmed the commitment of her Government to fully cooperate with the Working Group and the Special Representative of the Secretary-General, in particular with regard to the accelerated adoption of the remaining decrees for the implementation of the national law on the protection of children of 10 January 2009;

(b) Expressed the commitment of her Government to endorse and implement the conclusions of the Working Group (see S/AC.51/2007/4, S/AC.51/2007/17 and S/AC.51/2009/3) and to implement the recommendations contained in the reports of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (see S/2006/389, S/2007/391, S/2008/693 and S/2010/369);

(c) Expressed regret that not all violations had been taken into account in the fourth report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo;

(d) Noted that her Government had not remained inactive in the face of violations and abuses committed against children, and referred to the accelerated integration of armed groups into FARDC and the Government's ability to screen and release children from FARDC ranks;

(e) Recalled the existence of Law No. 09/001 of 2009 prohibiting the use of children by FARDC, recalled that, thanks to the United Nations and its partners in the field, more than 3,000 children had been separated from the ranks of armed groups in the past year alone, and indicated that cooperation between the Government of the Democratic Republic of the Congo and the United Nations had made it possible for more children to be separated from armed groups and repatriated to neighbouring countries;

(f) Outlined the steps that her Government, in collaboration with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), had taken since November 2009 to address sexual violence against minors, and emphasized that the improvement of the legal system and the strengthening of capacities of the national police were two key steps taken to enhance child protection.

10. Further to the meeting and subject to and consistent with applicable international law and relevant Security Council resolutions, including resolutions 1612 (2005) and 1882 (2009), the Working Group agreed to the following direct action:

Public statements issued by the Chairman of the Working Group

11. The Working Group agreed to address messages to all the parties to the armed conflict in the Democratic Republic of the Congo, in particular FARDC, the former Congrès national pour la défense du peuple (CNDP), the Forces démocratiques de libération du Rwanda (FDLR), the Forces de resistance patriotique en Ituri (FPRI), the Front des nationalistes et intégrationnistes (FNI), the Lord's Resistance Army, various Mai-Mai groups and the Coalition des patriotes résistants congolais (PARECO), as mentioned in the report of the Secretary-General, through public statements by its Chairman on behalf of the Working Group:

(a) Calling their attention to the fact that the Security Council has received a fourth report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo (S/2010/369);

(b) Recalling the Working Group's strong condemnation of the recruitment and use of children by armed groups, in violation of applicable international law, and all other violations and abuses committed against children in the Democratic Republic of the Congo, and expressing deep concern about the fact that parties to the conflict continue to perpetrate violations and abuses against children in the Democratic Republic of the Congo;

(c) Welcoming the final report of the Group of Experts on the Democratic Republic of the Congo (S/2010/596), and expressing concern regarding the Group's findings of direct and command responsibility for the recruitment and use of children by the leaders of Congolese armed groups and two FARDC military commanders;

(d) Recalling the Working Group's readiness to communicate to the Security Council pertinent information with a view to assisting the Council in the imposition of targeted measures on persistent perpetrators;

(e) Recalling also that Security Council resolution 1952 (2010) renewed until 30 November 2011 the financial and travel measures imposed by resolution 1807 (2008), which apply to individuals and, as appropriate, entities, as designated by the Committee established pursuant to resolution 1533 (2004), which include:

(i) Political and military leaders operating in the Democratic Republic of the Congo and recruiting or using children in armed conflict, in violation of applicable international law;

(ii) Individuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement;

(f) Further recalling that, on 13 August 2010, the Committee updated its sanctions list to include the charges of recruitment and use of children against nine individuals already included on the Committee's list of individuals and entities subject to the measures imposed by paragraphs 13 and 15 of Security Council resolution 1596 (2005), as renewed by paragraph 3 of resolution 1952 (2010);

(g) Stressing that, on 1 December 2010, the Committee added four individuals to its sanctions list, one of whom was designated for holding direct and

command responsibility for child recruitment and for maintaining children within troops under his command;

(h) Urging them to end the recruitment and use of children, in accordance with applicable international law, and to release all children within their ranks in a manner that allows effective confirmation by the United Nations country-level task force on monitoring and reporting;

(i) Emphasizing the Council's expectation that when the Government of the Democratic Republic of the Congo adopts an action plan, all groups that are integrated into FARDC will come into immediate compliance with said action plan, in line with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009), and stressing that compliance has to be confirmed by the United Nations country-level task force on monitoring and reporting;

(j) Urging all non-State armed groups to immediately stop the recruitment and use of children, the killing and maiming of children and the perpetration of rape or sexual violence against children, and to enter into dialogue with the United Nations to prepare and implement action plans to cease these violations, in line with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009).

Recommendations to the Security Council

12. The Working Group agreed to recommend that the President of the Security Council transmit the following letters:

Letter to the Government of the Democratic Republic of the Congo

(a) Urging it to meet, without further delay, its commitments to adopt an action plan to end the recruitment and use of children by FARDC, including newly integrated elements, taking into account the Government's commitment to implement the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (the Paris Principles) and the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups (the Paris Commitments), and to implement them without delay;

(b) Stressing, in this context, that, in line with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009), such an action plan should include the immediate and unconditional release of all children still remaining in FARDC ranks, access to all military sites and *regroupement* centres for verification by child protection actors and prevention and accountability measures against responsible individuals;

(c) Strongly encouraging it to put an end to impunity and to ensure that all individuals responsible for violations against children are held accountable, through the accelerated adoption of remaining decrees for the implementation of the national law on the protection of children promulgated on 10 January 2009 and the adoption of the law for the reform of the national police and the reinforcement of the capacities of the military judicial system to investigate and prosecute all perpetrators of violations of children's rights, including high-level commanders;

(d) Urging it to take all necessary measures to ensure that the amnesty law adopted on 7 May 2009 is implemented so that the perpetrators of war crimes and crimes against humanity do not benefit from amnesty;

(e) Recalling the Working Group's recent conclusions on children and armed conflict in Uganda (S/AC.51/2010/1);

(f) Recommending that it develop, pursuant to Security Council resolution 1906 (2009), and along with the Governments of the Central African Republic, Uganda and the Sudan, a regional strategy in line with international humanitarian and human rights law in order to address abuses committed by the Lord's Resistance Army, including on how to address the violations and abuses committed against children, taking into account regional initiatives;

(g) Urging it to withdraw all perpetrators of child rights violations, irrespective of their rank, from the FARDC chain of command, and to hold them accountable for the crimes committed against children, including those involving the recruitment and use, rape and sexual violence, and killing and maiming of children;

(h) Expressing strong concern about continuing patterns of sexual violence against children and urging FARDC, including its newly integrated elements, to enter into dialogue with the United Nations to prepare and implement an action plan to halt sexual violence against children, in line with Security Council resolution 1882 (2009), bearing in mind the national strategy to combat sexual violence in the Democratic Republic of the Congo;

(i) Recalling, in this context, that compliance with resolutions of the Security Council and the implementation of all requested action plans, confirmed by the United Nations task force on monitoring and reporting, would lead to de-listing of FARDC from the annexes of the Secretary-General's annual reports;

(j) Stressing the need for FARDC to devise, with the support of MONUSCO, standard operating procedures to ensure that children are protected in the course of military operations and when they come into their custody, in accordance with international humanitarian law, and urging that these procedures include the protection of schools and hospitals.

Letter to the Secretary-General

(a) Recognizing the critical role that MONUSCO and the United Nations have played in the protection of children in the Democratic Republic of the Congo;

(b) Recalling that, in line with the policy on the conditions under which support could be provided to FARDC units mentioned in Security Council resolution 1906 (2009), MONUSCO may provide logistical and technical support to FARDC in all FARDC-led military operations against foreign and Congolese armed groups only if the operations are conducted in compliance with international humanitarian, human rights and refugee law;

(c) Stressing the need for MONUSCO, in its role as resident coordinator/humanitarian coordinator, to redouble its efforts for long-term reintegration support;

(d) Requesting the Secretary-General to ensure that action plans entered into with various parties are implemented without further delay and noting that the Council should be appraised immediately should further difficulties arise.

Letter to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

(a) Recalling paragraph 7 (b) of resolution 1882 (2009), by which the Security Council requested enhanced communication between the Working Group and relevant Security Council Sanctions Committees, including through the exchange of pertinent information on violations and abuses committed against children in armed conflict;

(b) Recalling also paragraph 17 of resolution 1698 (2006), by which the Security Council requested the Working Group, the Secretary-General, his Special Representative for Children and Armed Conflict, as well as the Group of Experts on the Democratic Republic of the Congo, within its capabilities and without prejudice to the execution of the other tasks in its mandate, to assist the Committee established pursuant to resolution 1533 (2004) in the designation of political and military leaders for sanctions, by communicating to the Committee any useful information without delay;

(c) Welcoming in this regard the inclusion, on 13 August 2010, in the Committee's sanctions list, of the charges of recruitment and use of children against nine individuals whose names already appeared in the list, as well as the addition, on 1 December 2010, of an individual for holding direct and command responsibility for recruiting and maintaining children in troops under his command;

(d) Encouraging the Committee to continue considering the designation for sanctions of other political and military leaders in accordance with the rules and guidelines of the Committee, and in this regard also encouraging the continued exchange of pertinent information between the Special Representative of the Secretary-General for Children and Armed Conflict and the Committee;

(e) Welcoming the cooperation between the Government of the Democratic Republic of the Congo and the Group of Experts on the Democratic Republic of the Congo, and encouraging them to continue to exchange information on perpetrators of violations and abuses against children.

To the Security Council

(a) *Recommending* that the Security Council continue to take into account the situation of children affected by armed conflict in its consideration of the situation in the Democratic Republic of the Congo;

(b) *Recommending also* that the Security Council ensure the continuation of a child protection mandate for MONUSCO, especially with regard to monitoring, reporting, training and dialogue on action plans;

(c) *Inviting* the Security Council to communicate the present document to the Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo.

Direct action by the Working Group

13. The Working Group agreed that letters should be addressed to donors:

(a) *Requesting* the main donors to allocate funding to support reintegration activities for children and young people formerly associated with armed forces and

groups, and emphasizing the need to build on existing initiatives and to put in place long-term community-based reintegration programmes, using in particular the security sector reform process to address the needs of children and young people formerly associated with the armed forces and armed groups in the Democratic Republic of the Congo;

(b) *Recommending* that the situation of girls be given priority attention and resourcing with regard to reintegration strategies, to ensure that girls are given equal opportunity to engage in disarmament, demobilization and reintegration programmes;

(c) *Urging* donors to support the Government of the Democratic Republic of the Congo in implementing a comprehensive national strategy to prevent, respond to and combat sexual violence and impunity;

(d) *Also urging* donors to assist in ensuring the enhanced capacity and technical expertise of judicial officials and other relevant authorities in dealing with cases involving children.